

In the Matter of)
)
Amendment of Part 2 of the Commission's Rules) ET Docket No. 13-115
for Federal Earth Stations Communicating with)
Non-Federal Fixed Satellite Service Space Stations)
)

To: The Commission

Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (EIBASS) hereby respectfully submits its reply comments in the above-captioned Notice of Proposed Rulemaking (NPRM) and Notice of Inquiry (NOI) relating to federal satellite uplink and downlink stations using commercial (non-federal) satellite frequencies.

1. EIBASS agrees with the comments filed by Comsearch: It's okay to upgrade federal use of of fixed, terrestrial federal satellite uplink and downlink stations desiring to communicate with commercial satellites in geostationary orbit, in the "conventional" satellite bands, so long as the federal use meets all the frequency coordination requirements that a commercial (non-federal) satellite earth station desiring frequency protection would have to go through. That is, federal earth stations would have no preferred status, entitling them to superior protection. The existing frequency coordination protocols between Part 25 Satellite Services and other classes of FCC-licensed stations, including Part 101 Fixed Service (FS) point-to-point microwave stations and Part 74 Broadcast Auxiliary Services (BAS) stations, would apply.

2. However, implicit in the Comsearch and EIBASS positions is that federal use of the “extended” satellite bands should not be upgraded from secondary to co-primary, because these bands are extensively used by point-to-point terrestrial microwave stations. Allowing federal downlinks in these bands that were no longer secondary would give those sites “super primary” status because of the Commission policy of protecting downlinks on all possible channels and all possible look angles (*i.e.*, full-spectrum, full-arc protection). Both EIBASS¹ and the Fixed

Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (EIBASS)

EIBASS Reply Comments: ET Docket 13-115, Federal Use of Commercial Satellite Frequencies

Wireless Communications Coalition (FWCC)² have objected to full-spectrum, full-arc protection for downlinks because of the preclusive effect it has on all future terrestrial stations sharing the band. In EIBASS' view, it constitutes spectrum warehousing, plain and simple.³ Nevertheless, it is FCC policy.

3. Thus, like Comsearch, EIBASS objects to allowing federal stations co-primary status in the “extended” Ku band segment of 10.7-11.7 GHz, which, as Comsearch notes, is heavily used by Part 101 terrestrial FS stations. Further, EIBASS also objects to the other “extended” Ku band for federal co-primary use: Namely, 12.7–13.25 MHz, which is heavily used by TV BAS operations, and, as a result to the ET Docket 10-153 rulemaking, can now also be used by Part 101 FS stations.

4. Because of the aforementioned full-spectrum, full-arc policy for satellite downlinks, co-primary effectively means “super-primary.” That means spectrum hoarding, by restricting future use of those bands by incumbent terrestrial users. Until and unless the Commission abandons its policy of allowing satellite downlinks to effectively warehouse spectrum, federal downlinks on a co-primary basis should only be allowed in the “conventional” Ku band segments (11.7–12.2 GHz downlink and 14.0–14.5 GHz uplink), and not in the “extended” segments (10.7–11.7 GHz and 12.7–13.25 GHz downlinks).

5. EIBASS further agrees with Comsearch that the federal operator would have to participate in the Part 25/Part 101 frequency coordination notice system; that is, the prior coordination notice (PCN) process. Failure to participate in the PCN process would mean that a

² May 5, 1999, FWCC *Request for Declaratory Ruling* regarding full-spectrum, full-arc protection, which became IB Docket 00-203. Also the January 8, 2001, FWCC comments, and February 9, 2001, FWCC reply comments, to IB Docket 00-203. On January 30, 2002, the Commission terminated the rulemaking without taking action.

³ As noted by the Society of Broadcast Engineers, Inc. (SBE) in its March 3, 2004, comments to ET Docket 02-254 (Mobile Satellite Service (MSS) stations in the 7 and 13 GHz TV BAS bands), Section 309(j)(4)(B) of the Communications Act explicitly prohibits spectrum warehousing, as follows:

(4) CONTENTS OF REGULATIONS. In prescribing regulations pursuant to paragraph (3), the Commission shall

(B) include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, **to prevent stockpiling or warehousing of spectrum by licensees or permittees**, and to promote investment in and rapid deployment of new technologies and services; [bolded italics added]

Although Section 309(j) deals with spectrum auctions, as opposed to the Satellite Services, EIBASS finds the use of the “warehousing” term in the Communications Act suggests that Congress considers spectrum warehousing to not be in the public interest.

EIBASS Reply Comments: ET Docket 13-115, Federal Use of Commercial Satellite Frequencies

federal downlink that did not respond to a PCN could not later object to that non-federal terrestrial station.

II. Summary

6. Upgrading federal use of commercial satellite frequencies from secondary to co-primary would be acceptable so long as it is limited to just the “conventional” segments, and not the “extended” segments. The extended segments are shared with FS at 11 GHz, and with TV BAS and FS at 13 GHz. The extensive terrestrial microwave use by these services do not need an infusion of “super priority” satellite receiving sites that must then be protected on all possible frequencies and all possible look angles.

Respectfully submitted,

/s/ Dane E. Erickson, P.E., CSRTE, 8-VSB, CBNT
EIBASS Co-Chair
Hammett & Edison, Inc., Consulting Engineers
San Francisco, CA

/s/ Richard A. Rudman, CPBE
EIBASS Co-Chair
Remote Possibilities
Santa Paula, CA

September 30, 2013

EIBASS
18755 Park Tree Lane
Sonoma, CA 94128
707/996-5200
dericksen@h-e.com